

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
)  
Computer III Remand Proceedings: )  
Bell Operating Company Safeguards; )  
and Tier 1 Local Exchange Company )  
Safeguards )  
)  
Application of Open Network )  
Architecture and Nondiscrimination )  
Safeguards to GTE Corporation )

CC Docket No. 90-623

CC Docket No. 92-256

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

REPLY COMMENTS OF BELL ATLANTIC<sup>1</sup>

The comments confirm that competition, not privacy, provides the motivation for parties to seek more onerous customer proprietary network information ("CPNI") requirements. Those parties are using Commission processes in a continued attempt to prevent local exchange carriers ("LECs") from competing with them effectively. Despite the heightened rhetoric, the record provides no evidence that the existing CPNI rules are inadequate. Accordingly, there is no justification for the Commission to impose more burdensome CPNI regulations.

The parties that urge the Commission to adopt more stringent CPNI regulations repeat the mantra of privacy, but their arguments rest entirely upon the same, tired competitive

<sup>1</sup> The Bell Atlantic Telephone Companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

rhetoric that the Commission faces each time it re-examines CPNI.<sup>2</sup> Rather than relying on the marketplace, the LECs' competitors continue to try to expand the CPNI restrictions in a manner that will undermine the Commission's oft-repeated policy determinations that the public interest is best served by allowing the LECs to integrate their network service, enhanced service, and customer premises equipment ("CPE") activities.<sup>3</sup> The Commission should not allow its processes to be so abused.<sup>4</sup>

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<sup>2</sup> *See, e.g.*, Comments of Cox Enterprises, Inc. at 3-4 ("This preferential access to CPNI gives BOC-affiliated ESPs an artificial competitive advantage"); Comments of the Information Industry Association at 3 ("The competitive threats arising from the existing CPNI rules take two forms"); Comments of the Newspaper Association of America at 1-2 ("NAA has consistently opposed this double-standard, noting that it gives the local companies a significant competitive advantage in marketing unregulated services") (emphasis added).

<sup>3</sup> *See Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Phase I Report and Order*, 104 F.C.C.2d 958 at ¶¶ 264-65 (1986), *Phase II Report and Order*, 2 FCC Rcd 3072 at ¶¶ 15-56 and 164-65 (1987), *Phase II Memorandum Opinion and Order on Reconsideration*, 3 FCC Rcd 1150 at ¶¶ 96-99 (1988), *Phase I and II Memorandum Opinion and Order on Further Reconsideration and Second Further Reconsideration*, 4 FCC Rcd 5927 at ¶ 27 (1989); *Filing and Review of Open Network Architecture Plans*, 4 FCC Rcd 1 at ¶ 402 (1988); *Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, Report and Order*, 2 FCC Rcd 143 at ¶ 70 (1987), *Memorandum Opinion and Order on Reconsideration*, 3 FCC Rcd 22 at ¶¶ 20-22 (1987); *Computer III Remand Proceedings: Bell Operating Company Safeguards; and Tier I Local Exchange Company Safeguards*, 6 FCC Rcd 7571 (1991).

<sup>4</sup> Some parties want to expand the CPNI rules to throw roadblocks into the LECs's ability to market exchange services along with the particular service with which they compete, such as pay telephones, Centrex service, video dial tone, and toll service. *See* Comments of the American Public Communications Council at 6-10, Comments of Centex Telemanagement, Inc. on Customer Proprietary Network Information ("Centex") at 11-13, Comments of the National Cable Television Association at 2-8, (continued...)

In fact, these proponents of expanded CPNI restrictions provide not one scintilla of evidence that the current CPNI rules are inadequate.<sup>5</sup> They merely trot out the familiar platitudes that the Commission has seen repeatedly for the past eight years.

The only new evidence of record is a compelling showing that the existing rules are inconsistent with a competitive marketplace, that they cause confusion and anger, and that they are inconsistent with customer expectations.<sup>6</sup> The recent Louis Harris/Alan Westin study, for example, shows that customers expect that an integrated company will use customer information to market its entire range of products.<sup>7</sup> In addition, Bell

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<sup>4</sup> (...continued)  
Comments of the Telecommunications Resellers Association at 5-6. The Commission should reject such provincial and unjustified attempts to thwart LEC competition.

<sup>5</sup> The closest any party comes is an entirely unsupported claim by Centex Telemanagement, Inc. that two unnamed LECs have used information about Centrex customers to target Centex's management clients. Centex at 9-10. Such vague allegations hardly provide the probative evidence needed to support a CPNI rule change. By contrast, Rochester points out that it has never been subject to the Commission's CPNI rules yet has received no complaints about its use of CPNI. Comments of Rochester Telephone Corporation at 3.

<sup>6</sup> **See, e.g.,** Comments of Ameritech at 2-8, NYNEX's Comments on Rules Governing Telephone Companies' Use of CPNI at 5-10, Comments of Bell Atlantic at 2-5, Supplemental Comments of Bell Atlantic.

<sup>7</sup> **See** Comments of Bell Atlantic at 3, Supplemental Comments of Bell Atlantic at Att. 1. The Texas Public Utility Commission cites an earlier Harris/Westin survey to show that people are concerned about privacy. Comments of the Public Utility Commission of Texas at 10-11. There is no reason to doubt that the public has significant privacy concerns, but the current study by the same organization shows that consumers do not believe that use by a single enterprise of information to market a variety of products constitutes a privacy issue.

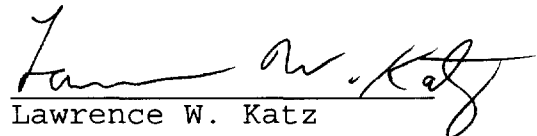
Atlantic has been deluged with customer complaints about what they view as a CPNI-related "run-around" when they seek information from Bell Atlantic business offices or account executives about enhanced services.<sup>8</sup>

Based on this record, the Commission has no evidence upon which to impose more onerous CPNI conditions. Instead, the record justifies easing the existing restrictions to meet customer expectations and avoid future confusion.

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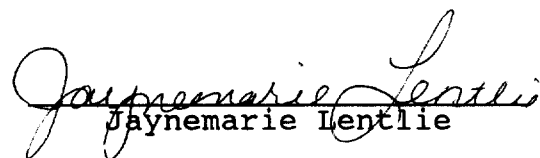
May 19, 1994

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<sup>8</sup> **See** Supplemental Comments of Bell Atlantic at Att. 2.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of Bell Atlantic" was served this 19th day of May, 1994, by first class mail, postage prepaid, on the parties on the attached list.

  
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